

REMARKS

Reconsideration of the above-identified patent application in view of the amendment above and the remarks below is respectfully requested.

Claims 4 and 25-27 have been canceled in this paper. Claims 1, 6-8, 11-12 and 17-18 have been amended in this paper. No new claims have been added in this paper. Therefore, claims 1-2, 6-24, 28-30 and 32-40 are pending. Of these claims, claims 10, 20-24, 28-30 and 32-40 have been withdrawn by the Patent Office as being directed to a non-elected invention or non-elected species. Therefore, claims 1-2, 6-9 and 11-19 are under active consideration.

Claims 1-2, 4, 6-9 and 11-19 stand rejected under 35 U.S.C. 112, first paragraph, “as failing to comply with the written description requirement.” In support of the rejection, the Patent Office states the following:

The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification had not originally presented a ramp “having a groove defining...an integrally formed sloped ramp portion” nor “provided with a groove to define a groove and a sloped embankment” as now appears in each of claims 1, 17 and 18.

Insofar as the subject rejection pertains to claim 4, the rejection is moot in view of Applicant’s cancellation herein of claim 4. Insofar as the subject rejection pertains to claims 1-2, 6-9 and 11-19, Applicant respectfully traverses the rejection.

As best understood by Applicant, the Patent Office is apparently contending that the present specification does not provide support for a ramp “having a groove defining...an integrally formed sloped ramp portion” or for a ramp “provided with a groove to define a [curb] and a sloped embankment.” Applicant respectfully disagrees with the Patent Office’s position that the

specification lacks written descriptive support of the subject claims; nevertheless, in an effort to more clearly and definitely claim the invention, Applicant has amended the subject claims. As such, claim 1, from which claims 2, 6, 7, 9, 11 and 16 depend, now recites "[a] pre-cast curbside access ramp for use in bridging passageways of different elevations, said pre-cast curbside access ramp having a top and a bottom, said top having a groove defining a curb portion and a sloped ramp portion, said curb portion being integrally formed to said sloped ramp portion, said bottom having a recessed area." Claim 8, claim 12 (from which claims 13-15 depend) and claim 17 (from which claims 18-19 depend) have been amended to include language similar to that of claim 1.

Applicant respectfully submits that the subject claims, as currently presented, are fully supported by the present specification since the present specification clearly teaches (i) that the curb portion and the ramp portion are integrally formed and (ii) that a groove distinguishes the curb portion from the ramp portion. For example, the present specification provides as follows on page 13, first paragraph:

Top 103, which is curved in the manner to be described below, is provided with a joint or groove 118 extending from the rear of front left side 111 to the rear of front right side 115, groove 118 defining an integrally formed curb portion 120. Curb portion 120 may be colored (e.g., its outer surface painted or its entirety pigmented) and/or textured differently than the remainder of ramp 101 to facilitate its identification by sight-impaired individuals, seeing-eye dogs and the like. As can readily be appreciated, one advantage to having ramp 101 include integrally-formed curb portion 120 is that there is no need to cut and slope the three curb sections in the manner that is required to be done conventionally. (Emphasis added.)

The present specification further provides as follows on page 14, last paragraph:

In view of the above, ramp 101 can be seen to include, in addition to curb portion 120, a central ramp region 141 and a pair of side ramp regions 143-1 and 143-2, side ramp regions 143-1

and 143-2 transitioning seamlessly from opposite sides of central ramp region 141. Central ramp region 141, whose top surface is generally trapezoidal in shape and extends from curb portion 120 to rear 109, slopes gradually upwardly from curb portion 120 to rear 109. Side ramp regions 143-1 and 143-2, whose top surfaces are generally triangular in shape and are positioned on opposite sides of central region 141 behind curb portion 120, slope gradually upwardly from central region 141 to sides 113 and 117, respectively. (Emphasis added.)

In addition, original claim 22 provides that “[t]he method as claimed in claim 20 wherein said finishing step comprises forming an appropriately placed groove in the concrete to delineate an integrally formed curb portion.”

Furthermore, the present specification, from page 15, last paragraph, to page 18, first paragraph, provides a detailed description of how ramp 101 is made. From this description, it is apparent that the curb portion and the ramp portion are integrally formed and that a groove is used to delineate the curb portion from the ramp portion.

Lastly, Applicant refers to Figs. 5(a) through 5(f) and, in particular, to Figs. 5(b) and 5(c), which are top and bottom views, respectively, of one embodiment of the subject ramp. It is clear from these figures (especially Fig. 5(c)) that the curb portion and the ramp portion are integrally formed and that groove 118 does not extend entirely through the ramp.

Accordingly, for at least the above reasons, the subject rejection should be withdrawn.

Claim 4 stands rejected under 35 U.S.C. 112, second paragraph, “as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.”

In view of Applicant’s cancellation herein of claim 4, the subject rejection is moot and should be withdrawn.

Claims 25-27 stand rejected “under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Loov,” “under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Fennessy, Sr.,” and “under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ivey.”

In view of Applicant’s cancellation herein of claims 25-27, these rejections are moot and should be withdrawn.

Claims 1, 4, 6-7, 9, 11, 17-18 and 25-27 stand rejected under 35 U.S.C. 103(a) “as being unpatentable over Fennessy, Sr. in view of either of Ivey or Loov and further in view of either of Lowe or Schmanski.” In support of the rejection, the Patent Office states the following:

Arguments to Fennessy, Sr. can be found above. Each of Ivey and Loov teaches formation of a curbside module possessing a bottom having a recessed area while each of Lowe and Schmanski teach application of a groove, indent, slot, recess, etc. so as to delineate the central ramp region of the respective curbside access ramp from the curb portion as is well known in the paving industry, (i.e., sidewalk sections are delineated or separated from the curb section via a groove, indent, slot, recess, etc.). To have formed the Fennessy, Sr. access ramp section 22/24 with a lower recessed area, thus serving to produce a section of pavement with as little material as practical, as well as provide the Fennessy, Sr. access ramp with any of a groove, indent, slot, recess, etc., so as to delineate the central ramp region of the respective curbside access ramp from the curb portion as is well known in the paving industry, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by either of Ivey and Loov while further in view of either of Lowe and Schmanski. Loov particularly teaches formation of bottom slots capable of receiving straps as can be seen in Figs. 2-5, (slots extending between the support portions 18, 21, 22, 24, 25, etc.). Therefore, formation of such slots within Fennessy, Sr. while forming the lowered recessed area, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by Loov.

As for claim 4, forming the resulting Fennessy, Sr. curbside access ramp 22/24 of a size and material so as to ‘reduce the weight

of ...[the] curbside access ramp by approximately 500 lbs.”, thus creating a ramp of any sufficient size and durability, would have constituted a further obvious expedient to one of ordinary skill in the art.

As for claim 7, forming the resulting Fennessy, Sr. ramp 22/24 with the central ramp region sloping from the curb portion 22 to the rear having a maximum slope of no greater than 1:12 and with the side ramp regions, (either sloping side of 24), sloping from the central ramp region to the respective rear left side and rear right side having a maximum slope of no greater than 1:10, thus allowing for a smooth transition between road surface and sidewalk, would have constituted a further obvious expedient to one of ordinary skill in the art.

Insofar as the subject rejection pertains to claims 4 and 25-27, the rejection is moot in view of Applicant’s cancellation herein of claims 4 and 25-27. Insofar as the subject rejection pertains to claims 1, 6-7, 9, 11, and 17-18, Applicant respectfully traverses the subject rejection.

As noted above, claim 1 has been amended herein and now recites “[a] pre-cast curbside access ramp for use in bridging passageways of different elevations, said pre-cast curbside access ramp having a top and a bottom, said top having a groove defining a curb portion and a sloped ramp portion, said curb portion being integrally formed to said sloped ramp portion, said bottom having a recessed area.”

The Patent Office is apparently contending that Fennessy, Sr. teaches all of the limitations of the pre-cast ramp of claim 1, except for (i) the bottom having a recessed area and (ii) the top having a groove delineating the curb portion from the sloped ramp portion. The Patent Office is also apparently contending that these deficiencies in Fennessy, Sr. can be remedied because (i) “[e]ach of Ivey and Loov teaches formation of a curbside module possessing a bottom having a recessed area” and (ii) “each of Lowe and Schmanski teach application of a groove, indent, slot, recess, etc.

so as to delineate the central ramp region of the respective curbside access ramp from the curb portion.” For at least the reasons below, Applicant respectfully disagrees with the Patent Office.

First, Applicant respectfully submits that there is no basis for modifying the ramp of Fennessy, Sr. to include a bottom having a recessed area. This is because, unlike the structures of Ivey and Lööv, which are prefabricated and then later installed at a desired location, the ramp of Fennessy, Sr. is not prefabricated, but rather, is formed by pouring concrete into a concrete receiving form positioned at the very location in the sidewalk where the concrete thereafter hardens and permanently resides (see col. 5, lines 32-36, of Fennessy, Sr.). Consequently, in view of the fact that the Fennessy ramp is formed in the same place that it is installed, one of ordinary skill in the art would have had no motivation to provide a recessed area in its bottom.

Second, Applicant respectfully submits that Lowe and Schmanski¹ do not stand for the teaching proposed by the Patent Office. Nothing in Lowe or Schmanski teaches or suggests providing a groove in a unitary ramp to delineate a curb portion from a ramp portion integrally formed thereto. Instead, it appears that all that is disclosed in Lowe and Schmanski is an arrangement similar to that disclosed in the present specification (see, for example, the paragraph bridging pages 1 and 2) of a granite curb positioned next to a separately-formed concrete ramp. In fact, Fig. 6 of Schmanski clearly shows a curb 63 cut in the conventional fashion to yield graded curb sections 62. There is no basis to believe that curb sections 62 are in any way integrally formed to the ramp shown. Similarly, nothing in Lowe would lead a person of ordinary skill in the art to believe that its curb is integrally formed to its ramp. Consequently, the Patent Office has failed to

¹ The Patent Office has apparently omitted from the outstanding Office Action an indication of the patent number for Schmanski. Applicant has assumed that the subject Schmanski patent is U.S. Patent No. 4,715,743. Confirmation or correction is respectfully requested.

provide any support for its assertion that it is well-known in the paving industry to use a groove to delineate integrally formed curb and ramp portions.

Claims 6-7, 9, and 11 depend from claim 1 and are patentable over the applied references based at least on their respective dependencies from claim 1. In addition, claim 6, from which claims 7 and 11 depend, is further patentable over the applied references for at least the reason that the applied references, taken individually or in combination, do not teach or suggest a pre-cast curbside access ramp comprising side ramp regions that transition **seamlessly** from a central ramp region. Instead, the applied references disclose ramps in which side ramp regions are separated from a central ramp region by a seam.

Claim 17, from which claim 18 depends, is patentable over the applied references for at least the same reasons as claim 1.

Accordingly, for at least the above reasons, the subject rejection should be withdrawn.

Claim 2 stands rejected under 35 U.S.C. 103(a) “as being unpatentable over Fennessy, Sr. in view of either of Ivey or Loov and further in view of either of Lowe or Schmanski as applied to claims 1, 4, 6, 7, 9, 11, 17, 18, and 25-27 above, and further in view of Daigle or Ivey.” In support of the rejection, the Patent Office states the following:

Each of Daigle and Ivey teach application of steel reinforcement within a curbing/pavement structure with Ivey teaching steel reinforcement at 14 and Daigle teaching steel reinforcement at col. 1, lines 22-24. To have provided the modified Fennessy, Sr. pavement structure 22/24 including ramp 22 with steel reinforcing means, thus producing a substantially reinforced arrangement, would have constituted an obvious expedient to one of ordinary skill in the art as taught by either of Daigle and Ivey.

Applicant respectfully traverses the subject rejection. Claim 2 depends from claim 1. Claim 1 is patentable over Fennessy, Sr. in view of either of Ivey or Lööv and further in view of either of

Lowe and Schmanski for at least the reasons given above. Neither Daigle nor Ivey cures all of the deficiencies with respect to claim 1. Therefore, based at least on its dependency from claim 1, claim 2 is patentable over Fennessy, Sr. in view of either of Ivey or Lööv and further in view of either of Lowe and Schmanski and further in view of either Daigle or Ivey.

Accordingly, for at least the above reasons, the subject rejection should be withdrawn.

Claims 16 and 19 stand rejected under 35 U.S.C. 103(a) “as being unpatentable over Fennessy, Sr. in view of either of Ivey or Loov and further in view of either of Lowe or Schmanski as applied to claims 1, 4, 6, 7, 9, 11, 17, 18, and 25-27 above, and further in view of Barrett.¹” In support of the rejection, the Patent Office states the following:

Barrett discloses utilization of identifying markers 40 along any extent of a curb construction. To have provided the modified Fennessy, Sr. pavement structure 2 or 2/5/6 with identifying markers along any extent of the curb portion 3 including at either end of a central region of the curb portion, thus providing indicating means for any of various purposes such as utility locator, address locator, access area locator, etc., would have constituted an obvious expedient to one of ordinary skill in the art as taught by Barrett.

Applicant respectfully traverses the subject rejection. Claim 16 depends from claim 1, and claim 19 depends from claim 17. Claims 1 and 17 are patentable over Fennessy, Sr. in view of either of Ivey or Lööv and further in view of either of Lowe and Schmanski for at least the reasons given above. Barrett does not cure all of the deficiencies with respect to claim 1 or claim 17. Therefore, based at least on their respective dependencies, claims 16 and 19 are patentable over Fennessy, Sr. in view of either of Ivey or Lööv and further in view of either of Lowe and Schmanski and further in view of Barrett.

Accordingly, for at least the above reasons, the subject rejection should be withdrawn.

In the outstanding Office Action, the Patent Office states that “[c]laims 8 and 12-15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.”

Applicant has re-written claims 8 and 12 in independent form, claims 13-15 depending from newly independent claim 12. Applicant respectfully submits that claims 8 and 12-15 comply fully with 35 U.S.C. 112. Therefore, Applicant respectfully submits that claims 8 and 12-15 are allowable and should be allowed at once.

It is respectfully submitted that the present application is in condition for allowance. Prompt and favorable action is earnestly solicited.

If there are any fees due in connection with the filing of this paper that are not accounted for, the Examiner is authorized to charge the fees to our Deposit Account No. 11-1755. If a fee is

required for an extension of time under 37 C.F.R. 1.136 that is not accounted for already, such an extension of time is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on May 2, 2005

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